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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

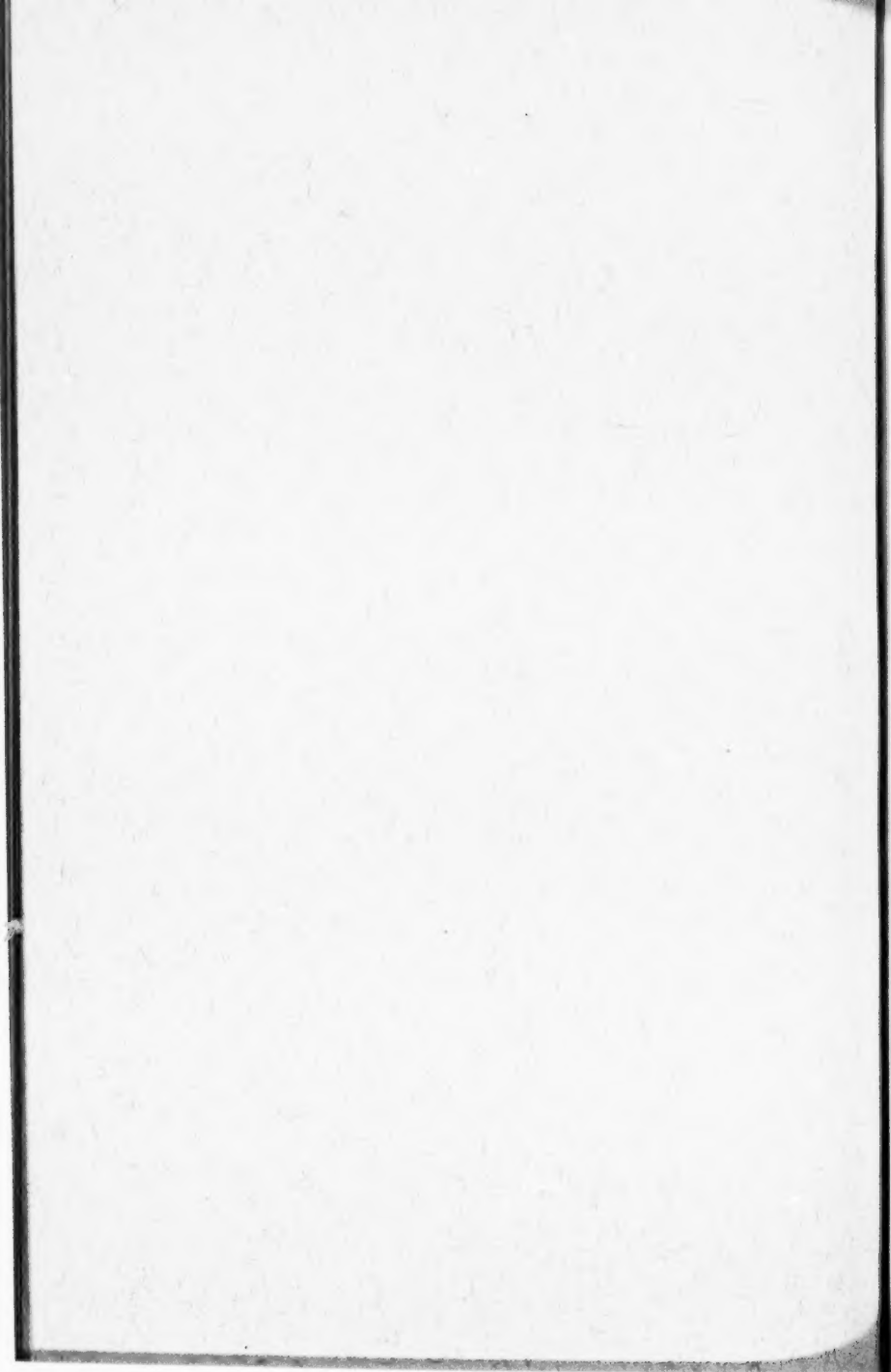
No. 820

JAMES J. LAUGHLIN,
Petitioner,
vs.

**LESLIE C. GARNETT, JOHN W. FIDELLY AND
ALLEN BAKER.**

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA WITH BRIEF IN SUP-
PORT THEREOF.**

JAMES J. LAUGHLIN,
Counsel for Petitioner.



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The petitioner prays that writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia entered November 8th, 1943, affirming the action of District Court in refusing petitioner's right to amend his complaint.

Opinion Below.

The opinion of the United States Court of Appeals for the District of Columbia has not yet been reported.

Jurisdiction.

The judgment of the court of appeals was entered on November 8, 1943 (R. 49-50). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925. By order of the Chief Justice of the United States the time for filing said petition for writ of certiorari has been extended to March 28th, 1944.

Questions Presented.

Whether the Acts set forth in the complaint filed in District Court come within the rule of immunity announced in *Spalding v. Vilas*, 161 U. S. 483.

Statement.

On September 9, 1936, petitioner, a member of the bar of this Court, was indicted for the crime of forgery and uttering larceny, larceny after trust and embezzlement. He was convicted in District Court of forgery and uttering and of embezzlement. He appealed to this Court and the conviction was reversed. *Laughlin v. United States*, 67 Appeals D. C. 355, 92 F. 2d 506. After the conviction he was permitted to remain on bond. Upon imposition of sentence—March 19, 1937—he was denied bond pending appeal. The judgment of this Court was rendered on July 22, 1937. He was ordered released on bond by this Court and he was released on July 22, 1937. It is well to point out that while the original indictments were pending and while the appeal from conviction was pending no disciplinary action of any kind was taken against him by the Grievance Committee of the Bar Association.

On November 17, 1937, four additional indictments were returned against petitioner in District Court. The indictments were based on the same subject matter as that

contained in the original indictments. On November 29, 1937, an order was signed by the Chief Justice of District Court suspending petitioner from practice in District Court. Such order was signed without notice and hearing. Petitioner resisted this order and a petition for a writ of mandamus was filed in this Court. This Court on December 27, 1937, ruled that the order of District Court "was improvidently made and should be set aside and annulled." See *Laughlin v. Wheat*, 68 Appeals D. C. 190, 195 F. 2d 101. On March 26, 1938, petitioner was acquitted in District Court on all counts of all indictments. All charges brought by the Bar Association were then dismissed.

A complaint was filed in District Court on March 25, 1939, for damages against Leslie C. Garnett who was United States Attorney when petitioner was prosecuted. The complaint also named John W. Fihelly, Assistant United States Attorney, Allen Baker, a police officer who was attached to the office of the United States Attorney, and Charles E. Ford, an attorney. The complaint was for malicious prosecution and alleged conspiracy on the part of the four named.

All defendants answered and in due time the case came on for pretrial hearing. At the pretrial hearing Judge Luhring suggested that petitioner file a more condensed complaint and that he would not be prejudiced in so doing. That was done and it was again suggested that still more condensed complaint be filed. There had been no motion to dismiss filed as to the first complaint nor was there any order signed dismissing the original complaint, the amended complaint nor the second amended complaint. When the second amended complaint was filed it came before Judge Bailey who held that as to Garnett, Fihelly and Baker the complaint did not show sufficient to take it out of the general rule that public officials are immune from suit within the scope of their authority. At that time it was suggested that the matter go before Judge Bailey. A motion was

filed for leave to file a third amended complaint with copy of amended complaint. That motion was taken under advisement and later denied. The appeal is from the denial of that motion. Defendant Ford is not concerned in this appeal since the case is at issue in District Court as to that defendant.

Specification of Errors to Be Urged.

The Court of Appeals erred:

1. In holding that the facts of the instant case fall within the rule of *Spalding v. Vilas*, 161 U. S. 483.
2. In affirming the action of District Court.

Reason for Granting the Writ.

1. We believe that the Court in holding that the acts set forth in the complaint are protected by the ordinary immunity granted government officials has stated a rule so broadly that it is now oppressive and that a citizen is at the absolute mercy of officials of the Government.

2. That since so much time has elapsed since *Spalding v. Vilas* became the law of the land that this Court should now clarify the situation. For the reasons stated it is respectfully submitted that this petition for writ of certiorari should be granted.

JAMES J. LAUGHLIN,
National Press Building,
Petitioner in Proper Person.